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BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 90-305-C - ORDER NO. 90-1154
DECEMBER 5, 1990

IN RE:	Proceeding to Consider Allowing)	ORDER
	Local and IntraLATA 0+ Collect)	RULING ON
	Authority for COCOT Providers)	MOTION TO
	Serving Confinement Facilities.)	DISMISS

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of a Motion to Dismiss filed by Southern Bell Telephone & Telegraph Company (Southern Bell) moving the Commission to dismiss the instant proceeding due to the failure of Pay Tel Communications, Inc., Coin Telephones, Inc., and Intellicall, Inc. (Applicants) to adhere to the filing requirements of the Commission. The Commission also received a filing from the Applicants in opposition to the Motion to Dismiss.

The basis for Southern Bell's Motion stems from its assertion that any telephone utility seeking to acquire a Certificate of Public Convenience and Necessity pursuant to S.C. Code Ann., §58-9-280 (1976) must make certain minimum filings with the Commission to support its request. Southern Bell contends that its schedule setting forth the proposed rates and charges must be filed in advance of hearing as well as any tariff provisions governing the subscriber utility relationship pursuant to S.C. Code Ann., §58-9-220 (1976). Southern Bell asserts that financial data must

also be filed setting forth the utility's jurisdictional investment, expenses, capitalization, net income and a requested return on investment. In addition, pursuant to R.103-834 of the Commission's Rules of Practice and Procedure, a balance sheet, profit and loss statement, proposed accounting adjustments, revenue impact of the proposed accounting adjustments, revenue impact of the proposed rates and work papers associated therewith, a statement of fixed assets and depreciation revenue and a rate of return on rate base and on common equity must be filed. Southern Bell contends that none of this information has been filed with the Commission by the Applicants.

Southern Bell's Motion to Dismiss asserts that the Applicants cannot meet their burden of proof in this proceeding since they have failed to file any of the testimony and exhibits mandated by South Carolina law. Southern Bell seeks that the proceeding be dismissed and that its pending motion to have the Applicants cease and desist their unlawful activities be granted.

The Opposition to the Motion to Dismiss states that Southern Bell seeks to hold the Applicants to a higher burden than resellers and interexchange carriers seeking certification before the Commission. Traditional COCOTs do not fall under the same traditional regulatory treatment as other telephone utilities seeking certification in South Carolina. The Commission has formulated a streamlined method through which COCOTs can obtain authority to provide their systems in South Carolina. The Applicants contend that as COCOTs, they are not held to the same

applications standards set forth in Title 58 and that many of the requirements which Southern Bell seeks to impose upon the Applicants are not appropriate for an industry governed by a "capped rate" structure. As such, the Applicants contend that these requirements are not even applicable to resellers and facility based interexchange carriers, much less COCOT providers. The Applicants also question the timeliness of Southern Bell's Motion and assert that by failing to make the request through discovery of the information Southern Bell deems pertinent, that it has it has waived any right it may have to seek dismissal.

In spite of their assertions to the contrary, the Applicants have stated their willingness to voluntarily provide balance sheets, profit and loss statements and proposed tariffs in an effort to ensure that the Commission is presented with all of the data it might possibly require to reach a decision in this proceeding. The Applicants assert that they will file the above-referenced information in the very near future.

The Commission has considered the Motion of Southern Bell as well as the Opposition to said Motion filed by the Applicants in this matter. The Commission has determined that, to some extent, the information alleged by Southern Bell that should be filed by the Applicants as part of a certification request is necessary and is in fact required of other resellers and interexchange carriers seeking a Certificate before the Commission. Much of the information asserted as required by Southern Bell is not applicable under the maximum rate structure method of regulation of

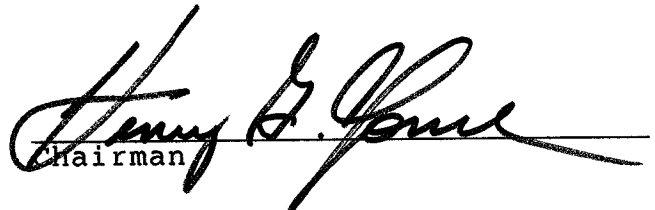
interexchange carriers. There is no need for rate base or rate of equity information, nor is there a requirement that any accounting adjustments or revenue impact information be filed since rates are being established, not increased or adjusted. The information proposed to be filed by the Applicants in this matter is satisfactory to the Commission and will enable the Commission to fulfill its regulatory duties by having this information ahead of the hearing.

In light of the Applicants' assertion that it will have this information available forthwith to the Commission and which should also be served on Southern Bell, the Commission is of the opinion that Southern Bell's Motion to Dismiss should be denied and that the pertinent information be filed with the Commission.

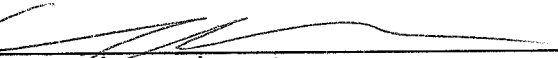
IT IS SO ORDERED.

BY ORDER OF THE COMMISSION:

VICE


Chairman

ATTEST:


Deputy

Executive Director

(SEAL)